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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/149,001	09/08/1998	HIROTAKE NOZAKI	101516	4328

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EXAMINER

NGUYEN, LUONG TRUNG

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 01/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/149,001Applicant(s)
Nozaki et al.Examiner
Luong NguyenArt Unit
2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 9, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) 3, 4, 6-10, and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 12 6) ☐ Other:

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DETAILED ACTION

1. Applicant's election with traverse of the Species IV as shown in Figures 1, 10 and 11 in Paper No. 11 filed on 10/09/2002 is acknowledged. The traversal is on the ground(s) that the subject matter of all claims 1-16 are sufficiently related that a thorough search for the subject matter of any one group of claims would encompass a search for the subject matter of the remaining claims. This is not found persuasive because the examination of the entire application would be burdensome in that examination of a plurality of patentably distinct inventions is required. Furthermore, the Applicants have not argued that the designated species are not patentably distinct. In the present application, each species forms a separate subject for inventive effort and therefore have separate status in the art.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 3-4, 6-10, 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 11.

Drawings

3. The drawings are objected to because of the informalities addressed in form PTO-948. A proposed drawing correction or corrected drawings are required in reply to the Office action to

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avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakano et al. (US 5,043,816).

Regarding claim 1, Nakano et al. disclose an electronic camera comprising image pick-up means (CCD 13, lens 11, figure 10); temporary memory means (memory 22, figure 10, column 14, lines 55-63); shooting evaluation means for evaluating a good or bad shooting state of the image data imaged by the image pick-up means (judging circuit 20, figure 10, column 12, lines 45-55, column 13, line 60 - column 14, line 53); still image selection means for selecting the image data with the highest evaluation of the shooting evaluation means among the image data stored in the temporary memory means (judging circuit 20, figure 10, column 14, lines 20-35); image saving means (floppy disk 28, figure 10, column 14, lines 53-63).

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Regarding claim 2, Nakano et al. disclose wherein the temporary memory means begins temporary storage of the image data after the release operation of the electronic camera (column 14, lines 53-59).

Regarding claim 11, Nakano et al. disclose wherein, as at least one of the good or bad evaluation of said shooting state, said shooting evaluation means detects a blurring amount and/or a misfocus amount of said image pick-up means (column 14, lines 1-52).

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claim 15 is rejected under 35 U.S.C. 102(e) as being anticipated by Okino et al. (US 5,920,349).

Regarding claim 15, Okino et al. disclose an electronic camera comprising a controller (controller 11, figure 1, column 3, lines 32-35) that evaluates a good or bad shooting state of continuously imaged image data of an object, the evaluation based on a spatial frequency component of the continuously imaged image data (automatic focusing function, discrimination

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unit for identifying block rich in high-frequency components, figure 1, column 1, line 60 - column 2, line 10, column 4, lines 35-55); temporary memory (recording medium 10, figure 1, column 3, lines 20-30); selects an image data with a highest evaluation (selection of blocks with a high content of the high frequency components, column 6, lines 23-35); save the selected image data (memory 12, column 3, lines 32-35).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakano et al. (US 5,043,816) in view of Okino et al. (US 5,920,349).

Regarding claim 5, Nakano et al. fail to specifically disclose wherein said temporary means differentially compressed plural frames of image data which are continuously imaged by said image pick-up means. However, Okino et al. disclose an image pickup device which includes compression circuit 7 to compress image data before recording in recording medium 10 (figure 1, column 3, lines 20-31). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Nakano et al. by the teaching of Okino

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et al. in order to compress image data before storing in a memory. This makes the memory can store more image data.

Regarding claim 12, Nakano et al. fail to specifically disclose wherein, as at least one of the good or bad evaluation of said shooting state, said shooting evaluation means determines the spatial frequency component of said image data. However, Okino et al. disclose an image pickup device which identifies a block rich in high-frequency component to detect the focus of a phototaking optical system (column 1, line 60 - column 2, line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Nakano et al. by the teaching of Okino et al. in order to provide an image pickup device capable of automatic focusing function and still having a small power consumption (column 1, lines 59-61).

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakano et al. (US 5,043,816) in view of Okino et al. (US 5,920,349) further in view of Fukuda (US 5,479,211).

Regarding claim 13, Nakano et al. and Okino et al. fail to specifically disclose wherein said shooting evaluation means determines a high-area component amount of the spatial frequency, based upon a compressed amount of said image data. However, Fukuda teaches judging circuit 18 for judging maximum frequency component based on compressed moving-picture data (see abstract, figures 1-2, column 5, lines 48-61, column 6, lines 46-67). Therefore, it would have

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been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Nakano et al. and Okino et al. by the teaching of Fukuda in order to eliminate the distortion of picture data.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakano et al. (US 5,043,816) and Okino et al. (US 5,920,349) in view of Fukuda (US 5,479,211) further in view of Uenaka (US 5,359,382).

Regarding claim 14, Nakano et al., Okino et al. and Fukuda fail to specifically disclose said shooting means determines a release time lag. However, Uenaka discloses an automatic focusing device in which a release time lag is calculated (column 8, lines 10-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Nakano et al., Okino et al. and Fukuda by the teaching of Uenaka in order to obtain more accurate focus prediction (column 8, lines 40-44).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suda (US 5,842,059) discloses automatic focus adjusting device.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Luong Nguyen** whose telephone number is **(703) 308-9297**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wendy Garber**, can be reach on **(703) 305-4929**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:
(703) 872 - 9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

LN LN
12/27/2002



ANDREW CHRISTENSEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600